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(1) The most recently issued passport was issued when the applicant was 16 years of age or older;

(2) The application is made not more than 15 years following the issue date of the previous passport; and

(3) The most recently issued previous passport is submitted with the new application.

[44 FR 19393, Apr. 3, 1979, as amended at SD-165, 46 FR 2343, Jan. 9, 1981; 46 FR 16257, Mar. 12, 1981; 51 FR 20475, June 5, 1986; 55 FR 21538, May 25, 1990; 57 FR 59807, Dec. 16, 1992; 61 FR 43312, Aug. 22, 1996; 65 FR 39288, June 26, 2000; 66 FR 29906, June 4, 2001; 69 FR 15670, Mar. 26, 2004]

§ 51.22 [Reserved]

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence of citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

[SD-165, 46 FR 2343, Jan. 9, 1981]

§ 51.24 Change of name.

An applicant whose name has been changed by court order or decree shall submit with his or her application a certified copy of the order or decree. An applicant who has changed his or her name by the adoption of a new name without formal court proceedings shall submit with his or her application evidence that he or she has publicly and exclusively used the adopted name over a long period of time.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

§ 51.25 Photographs.

(a) *Photographs of bearer.* The applicant shall submit with his or her application duplicate photographs as specified in the application. The photographs should be sufficiently recent to be a good likeness of and satisfactorily

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identify the applicant. The photographs shall be signed in the same manner and form as required in the application.

(b) *Photographs of uniformed personnel.* Only applicants who are in the active service of the Armed Forces and proceeding abroad in the discharge of their duties may submit photographs in the uniform of the Armed Forces of the United States.

(c) *Unacceptable photographs.* A photograph with a waxed back or other coating which lessens adhesiveness is not acceptable. Newspaper or magazine pictures, snapshots, or full length photographs are not acceptable. Photographs of persons in the uniform of a civilian organization, except religious dress, will not generally be accepted.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 43 FR 1791, Jan. 12, 1978; 44 FR 19394, Apr. 3, 1979; SD-165, 46 FR 2343, Jan. 9, 1981; 49 FR 16989, Apr. 23, 1984; 69 FR 15671, Mar. 26, 2004]

§ 51.26 Incompetents.

A parent, a legal guardian, or a person in loco parentis shall execute a passport application on behalf of a person declared incompetent.

§ 51.27 Minors.

(a) *Definitions.* A minor is an unmarried person under the age of 18 years.

(b) *Execution of the application for minors.* (1) *Minors 14 years of age and above.* A minor aged 14 and above is required to execute an application on his or her own behalf unless, in the judgment of the person before whom the application is executed, it is not desirable for the minor to execute his or her own application. In such a case, it must be executed on behalf of the minor aged 14 and above by a parent or guardian of the minor or by a person in loco parentis.

(2) *Minors under the age of 14.* (i) Minors under 14 years of age applying for a passport shall appear in person, unless the personal appearance of the minor is specifically waived by a senior passport specialist at the issuing passport agency in the United States, or by a senior consular officer at the issuing overseas consular office, pursuant to guidance issued by the Department of State. In cases where such a waiver is

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granted, the person executing the passport application on behalf of the minor shall appear in person and verify the application by oath or affirmation before a person authorized by the Secretary to give oaths unless, in the case of applications received overseas, these requirements are also waived by a senior consular officer, pursuant to guidance issued by the Department of State.

(ii) Except as specifically provided in this section, both parents or each of the child's legal guardians, if any, whether applying for a passport for the first time or for a renewal, must execute the application on behalf of a minor under age 14 under penalty of perjury, and provide documentary evidence of parentage showing the minor's name, date and place of birth, and the names of the parent or parents.

(iii) A passport application may be executed on behalf of a minor under age 14 by just one parent or legal guardian if such person provides, under penalty of perjury:

(A) Documentary evidence that such person is the sole parent or has sole custody of the child; or

(B) A notarized written statement or notarized affidavit from the non-applying parent or guardian, if applicable, consenting to the issuance of the passport.

(iv) An individual may apply in *loco parentis* on behalf of a minor under age 14 by submitting a notarized written statement or a notarized affidavit from both parents specifically authorizing the application. However, if only one parent provides the notarized written statement or notarized affidavit, documentary evidence that such parent has sole custody of the child must be presented.

(v) Documentary evidence in support of an application executed on behalf of a minor under age 14 by one parent or person in *loco parentis* under paragraphs (b)(2)(ii) and (iii) of this section may include, but is not limited to, the following:

(A) A birth certificate providing the minor's name, date and place of birth and the name of the sole parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240) or a Certifi-

cation of Report of Birth of a United States Citizen (DS-1350) providing the minor's name, date and place of birth and the name of the sole parent;

(C) An adoption decree showing only one adopting parent;

(D) An order of a court of competent jurisdiction granting sole custody to the applying parent or legal guardian and containing no travel restrictions inconsistent with issuance of the passport;

(E) A judicial declaration of incompetence of the non-applying parent;

(F) An order of a court of competent jurisdiction specifically permitting the applying parent's or guardian's travel with the child;

(G) A death certificate for the non-applying parent; or

(H) A copy of a Commitment Order or comparable document for an incarcerated parent.

(vi) In instances when a parent submits a custody decree invoking the provisions of paragraph (d)(1) of this section, the judicial limitations on the minor's ability to travel contained in the custody decree will be given effect.

(vii) The requirements of paragraphs (b)(2)(i), (ii) and (iii) of this section may be waived in cases of exigent or special family circumstances, as determined by a Department official designated under paragraph (b)(2)(vi)(E) of this section.

(A) Exigent circumstances are defined as time-sensitive circumstances in which the inability of the minor to obtain a passport would jeopardize the health and safety or welfare of the minor or would result in the child being separated from the rest of his or her traveling party.

(B) "Time-sensitive" generally means that there is not enough time before the minor's emergency travel to obtain either the required consent of both parents/guardians or documentation reflecting a sole parent's/guardian's custody rights.

(C) Special family circumstances are circumstances in which the minor's family situation makes it impossible for one or both of the parents to execute the passport application.

(D) A parent applying for a passport for a child under age 14 under this paragraph (b)(2)(vi) must submit with

the application a written statement subscribed under penalty of perjury describing the exigent or special family circumstances the parent believes should be taken into consideration in applying an exception.

(E) Determinations under this paragraph (b)(2)(vi) may be made by a senior passport adjudicator or the Deputy Assistant Secretary for Passport Services for an application filed within the United States, or a consular officer or the Deputy Assistant Secretary for Overseas Citizens Services for an application filed abroad.

(viii) Nothing contained in this section shall prohibit any Department official adjudicating a passport application on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 14 in accordance with the provisions of this regulation.

(c) Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute. At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.

(1)(i) When there is a dispute concerning the custody of a minor under age 18, a passport may be denied if the Department has on file, or is provided in the course of a passport application executed on behalf of a minor, a copy of a court order from a court of competent jurisdiction in the United States or abroad which:

- (A) Grants sole custody to the objecting parent; or,
- (B) Establishes joint legal custody; or,
- (C) Prohibits the child's travel without the permission of both parents or the court; or,
- (D) Requires the permission of both parents or the court for important decisions, unless permission is granted in writing as provided therein.

(ii) For passport issuance purposes, a court order providing for joint legal custody will be interpreted as requiring the permission of both parents. The Department will consider a court of competent jurisdiction to be a U.S. state court or a foreign court located in the child's home state or place of habitual residence. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the child exist.

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been registered with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 61 FR 6505, Feb. 21, 1996; 66 FR 29906, June 4, 2001; 69 FR 15671, Mar. 26, 2004; 69 FR 60813, Oct. 13, 2004]

§ 51.28 Identity of applicant.

(a) If the applicant is not personally known to the official receiving the application he or she shall establish his or her identity by the submission of a previous passport, other identifying documents or by an identifying witness.

(b) If an applicant submits an application under the provisions of paragraph (c) of § 51.21 he or she must submit a prior passport with his or her application.

(c) Any official receiving an application for a passport or any Passport